



TOWN of BROOKLINE

Massachusetts

COVID-19 LEAVE POLICY

Yellow highlighted sections reflect differences (more generous benefits) from the federal policy.

I. PURPOSE AND SCOPE

The goal of the Town of Brookline is to encourage the health and wellness of Town employees during this unprecedented time.

The Town of Brookline is committed to not just providing the minimum benefits mandated by the Families First Coronavirus Response Act (FFCRA), but also to extending additional, **more generous COVID-19 sick leave benefits** to eligible municipal employees.

This Policy outlines the Town's paid leave protocols for the duration of the COVID-19 public health emergency. It includes all benefits/obligations under the Families First Coronavirus Response Act (FFCRA).

The benefits outlined in this Policy are available to eligible municipal employees through December 31, 2020.

II. APPLICABILITY OF COVID LEAVE POLICY

- a. The benefits outlined in the policy below (Emergency Paid Sick Leave (EPSL) and Emergency Family Medical Leave (EFML) apply to all eligible municipal employees.
- b. Pursuant to Division C, Section 3105 of the Families First Coronavirus Response Act (FFCRA), the Town may elect to exclude emergency responders and/or health care providers from the family leave benefits provided by the Emergency Family and Medical Leave Expansion Act. See Families First Coronavirus Response Act (FFCRA), Pub.L. 116-127, Div. C, § 3105, Mar. 18, 2020, 134 Stat. 192.

At the time of publication, the Town has not elected to exclude Emergency Responders from the benefits provided by the FFCRA's Emergency Paid Sick Leave or Emergency Family and Medical Leave Expansion Act. Should the operational need arise, the Town reserves the right to revisit this option under FFCRA.

III. POLICY

a. COVID-19 Illness/Caregiver Leave (Emergency Paid Sick Leave (EPSL))

i. ELIGIBILITY.

1. All municipal employees are entitled to two weeks of COVID-19 Illness/Caregiver Leave under this Section on a one-time basis between April 1, 2020 and December 31, 2020.

At the time of publication, the Town has not elected to exclude Emergency Responders from the benefits provided by the FFCRA's Emergency Paid Sick Leave Act. Should the operational need arise, the Town reserves the right to revisit this option under FFCRA.

2. Intermittent use of time under this Section will be allowed so long as the total leave taken under this Section does not exceed a total of two weeks of leave. Leave will be charged in increments of full days or shifts as appropriate.
3. For an employee working fewer than forty (40) hours per workweek whose schedule varies week to week to such an extent that the employer cannot determine how many hours that employee would have worked if not taking leave, the employer shall calculate the number of hours the employee would otherwise normally be scheduled to work by either of these methods:

- a. By looking at the average number of hours that the employee was scheduled per day over the six-month period ending on the date on which the employee takes such leave, including hours the employee took leave of any type;
- b. If the employee did not work over that period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

ii. REASONS FOR LEAVE.

1. The Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. The Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis. Any COVID-19 Illness/Caregiver Leave taken for this reason is limited to time the employee is unable to work because the employee is taking affirmative steps to obtain a medical diagnosis, such as making, waiting for, or attending an appointment for a test for COVID-19.
4. The employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child-care provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

iii. PAY RATE OF BENEFIT.

COVID-19 Illness/Caregiver Leave under this Section shall be paid at the employee's regular rate of pay.

iv. DOCUMENTATION OF LEAVE.

1. Employee: Appropriate documentation is required to request and substantiate the duration of the absence under this Section. Employees requesting leave under this Section will be required to fill out the appropriate leave form and submit all required documentation. Employees must also complete absence notification to their departments as required under department policy, collective bargaining requirements, or Town policy. For this section, the documents needed is an isolation or quarantine order; a report or letter from a medical professional, government or health entity indicating the need for self-isolation or quarantine; or student enrollment and closure information from a school or childcare, depending on the reason for leave.
2. All leave request forms and applicable materials must be submitted electronically to Human Resources at HRCOVID19@brooklinema.gov as soon as information is available.

v. EMPLOYEE ELECTION.

1. To have the employee's existing position reviewed for a possible remote work arrangement. If such an arrangement can be made and is suitable for the position and employee, the employee may work remotely in lieu of taking paid leave time.
2. To use the paid leave as described above in this Section.
3. To use the employee's own otherwise available paid leave time for these purposes.

vi. PROHIBITED ACTS.

Employers are prohibited from:

1. Requiring employees to find replacements to cover their hours during time off;
2. Discharging or discriminating against employees for requesting COVID-19 Illness/Caregiver Leave or filing a complaint against the employer related COVID-19 Leave Policy.
3. Discriminating against or discharging any employee who has instituted a proceeding or given testimony in connection with a proceeding related to this policy.

b. COVID-19 Quarantine Sick Leave (Expanded Emergency Paid Sick Leave – EPSL+)

i. ELIGIBILITY

1. Regardless of hire date, all municipal employees are entitled to COVID-19 Quarantine Sick Leave between April 1, 2020 and December 31, 2020, in the event that they need additional leave after having exhausted their EPSL leave under section (a) due to a continuing personal diagnosis of COVID-19.

At the time of publication, the Town has not elected to exclude Emergency Responders from the benefits provided by the FFCRA's Emergency Paid Sick Leave Act. Should the operational need arise, the Town reserves the right to revisit this option under FFCRA.

2. Both full-time and part-time employees will be compensated at their regular rate of pay during an approved absence for the reasons set forth in this Section.

ii. REASONS FOR LEAVE.

Employees are entitled to take COVID-19 Quarantine Sick Leave under this Section when the Town has work for the employee (including remote work where available), but the employee is unable to work because the employee is isolating or quarantining due to a documented personal diagnosis of COVID-19 and their need for leave extends beyond the initial two weeks of EPSL leave.

iii. PAY RATE OF BENEFIT AND DURATION OF LEAVE.

COVID-19 Quarantine Sick Leave under this Section shall be paid at the employee's regular rate of pay for the period for which the employee is directed to be in quarantine or isolation. During the initial two weeks of EPSL leave, employees will be followed by Human Resources and must provide documentation as required by Section III(a)iv of the policy. For Employees who need leave in excess of four (4) weeks for their own continuous COVID-19 illness, Human Resources will work with the employees to continue leave under traditional Family and Medical Leave (FMLA) or use of available accrued time.

iv. DOCUMENTATION OF LEAVE.

1. Employee: Appropriate documentation is required to request and substantiate the duration of the absence under this Section. Employees requesting leave under this Section will be required to fill out the appropriate leave form and submit all required documentation. Employees must also complete absence notification to their departments as required under department policy, collective bargaining requirements, or Town policy. For this section, the documents needed is a report or letter from a medical professional indicating the need for more than two (2) weeks of time before the Employee to recover from COVID and safely return to work, and an expected return date for the Employee.

2. All leave request forms and applicable documents must be submitted electronically to Human Resources at HRCOVID19@brooklinema.gov as soon as information is available.

v. EMPLOYEE ELECTION.

1. To have the employee's existing position reviewed for a possible remote work arrangement. If such an arrangement can be made and is suitable for the position and employee, the employee may work remotely in lieu of taking paid leave time.
2. To use the paid leave as described in this section.
3. To use the employee's own otherwise available paid leave time under Town policy or collective bargaining agreement for these purposes.

vi. PROHIBITED ACTS.

Employers are prohibited from:

1. Requiring employees to find replacements to cover their hours during time off.
2. Discharging or discriminating against employees for requesting COVID-19 Quarantine Sick Leave.
3. Discriminating against or discharging any employee who has instituted a proceeding or given testimony in connection with a proceeding related to this Policy.

c. COVID-19 Family Leave (Emergency Family Medical Leave (EFML))–

i. ELIGIBILITY.

All municipal employees who have been working for the Town for at least thirty (30) days are entitled to the benefit outlined in this Section.

At the time of publication, the Town has not elected to exclude Emergency Responders from the benefits provided by the FFCRA's Emergency Family and Medical Leave Expansion Act. Should the operational need arise, the Town reserves the right to revisit this option under FFCRA.

ii. REASONS FOR LEAVE.

Employees are entitled to up to twelve (12) workweeks of job-protected leave under this Section when the Town has work for the employee, but the employee is unable to work or telework due to a need for leave to care for the employee's son or daughter if that son or daughter's school or place of care has been closed or childcare program/provider has become unavailable due to the COVID-19 public health emergency.

Employees must affirm that they are the ONLY suitable person available to care for their son or daughter. Employees who choose to keep their children at home when the child care or school has an in person option are not eligible for EFML.

iii. AMOUNT OF LEAVE.

1. Employees are entitled to take up to twelve (12) workweeks of COVID-19 Family Leave under this Section between April 1, 2020 and December 31, 2020.
2. If an employee is eligible for benefits under the Family and Medical Leave Act (FMLA), any COVID-19 Family Leave taken under this Section counts towards the twelve (12) total workweeks of FMLA leave for any qualifying reason (or twenty-six (26) total workweeks of FMLA military caregiver leave) to which that employee is entitled in a twelve-month period under the FMLA.

iv. PAY RATE OF BENEFIT.

1. Employees are entitled to up to twelve (12) workweeks of COVID-19 Family Leave under this Section.
 - a. The first ten (10) days of this COVID-19 Family Leave will be unpaid, but employees may elect to use other applicable paid leave, including Emergency Paid Sick Leave (EPSL)

or their individual available paid leave in accordance with existing Town policies, relevant collective bargaining agreements or leave as outlined in Section III(a) of this Policy, to cover this period. Leave will be charged in increments of full days or shifts as appropriate.

b. All subsequent weeks of COVID-19 Family Leave will be paid at a rate of 2/3 of an employee's regular rate of pay, for the number of hours the employee would otherwise normally be scheduled to work.

c. The employee may use of available accrued paid leave to bring the employee's pay 100 percent of their wages.

2. For an employee whose schedule varies week to week to such an extent that the employer cannot determine how many hours that employee would have worked if not taking leave, the employer shall calculate the number of hours the employee would otherwise normally be scheduled to work by either of these methods:

a. By looking at the average number of hours that the employee was scheduled per day over the six-month period ending on the date on which the employee takes such leave, including hours the employee took leave of any type; or

b. If the employee did not work over that period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

v. EMPLOYEE RIGHT TO EQUIVALENT POSITION UPON RETURN.

Employees are not guaranteed the same position they held prior to taking leave under this Section. Upon return from taking leave under this Section, the employee must be restored to the same position or an equivalent position. An equivalent position means a position that is virtually identical to the original job in terms of pay, benefits, and other terms and conditions of employment (including shift and location).

vi. DOCUMENTATION OF LEAVE.

1. Employee: Appropriate documentation is required to request and substantiate the duration of the absence under this Section. Employees requesting leave under this Section will be required to fill out the appropriate leave form and submit all documentation required. Employees are encouraged, for safety reasons, to submit leave requests electronically. Documentation for leave under this Section includes documentation from the child/children's school or child care showing enrollment and the schedule for remote learning. Employees must affirm that they are the ONLY suitable person available to care for their son or daughter. Employees who choose to keep their children at home when the child care or school has an in person option are not eligible for EFML.

2. Management: All leave request forms and applicable materials must be submitted electronically to Human Resources at HRCOVID19@brooklinema.gov within three days of receiving the request.

vii. PROHIBITED ACTS.

Employers are prohibited from:

1. Interfering with an employee's ability to exercise the rights provided in this Section;
2. Discriminating against or discharging any employee for opposing any practice made unlawful by this Section; or
3. Discriminating against or discharging any employee who has instituted a proceeding or given testimony in connection with a proceeding related to this Section.

IV. DEFINITIONS

- a. The term **“regular rate of pay”** shall be defined as the employee’s standard rate of compensation during a 40-hour (or less) workweek and does not include overtime pay.
- b. The term **“two weeks,”** as used in Sections III shall be defined as the total number of hours the employee would normally work during a two-calendar-week period.
- c. The term **“son or daughter”** shall be defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:
 - i. under 18 years of age; or
 - ii. 18 years of age or older and incapable of self-care because of a mental or physical disability.
- d. The term **“individual”** shall be defined as an employee’s immediate family member, a person who regularly resides in the employee’s home, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if the person were quarantined or self-quarantined. The term “individual” does not include persons with whom the employee has no personal relationship.
- e. The term **“subject to a quarantine or isolation order”** shall be defined as a quarantine, isolation, containment, shelter-in-place, or stay-at-home order issued by any Federal, State, or local government authority that causes the employee to be unable to work. This also includes when a Federal, State, or local government authority has advised categories of citizens (*e.g.*, of certain age ranges or of certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of employees to be unable to work even though the employer has work for them.
- f. The term **“place of care”** means the physical location where care is provided while the employee is normally working. Examples are day care facilities, preschools, before-and-after school programs, schools, homes, summer camps, summer enrichment programs, and respite care programs.
- g. The terms **“child care provider”** means a provider who receives compensation for providing childcare services on a regular basis, including a center-based provider, a group home child care provider, or other licensed child care provider. But, it can also mean someone who is not normally compensated or licensed if it is a family member or friend who regularly cares for the employee’s child.

Attachment A: COVID-19 Illness/Caregiver Leave Request Form (EPSL)

Attachment B: COVID-19 Family Leave Request Form (EFML)

Attachment C: COVID-19 Quarantine Leave Request Form (EPSL+: Extended EPSL- HR USE)

Attachment D: COVID-19 Leave Policy Chart of Paid Leave Categories (internal for HR/PAYROLL USE)